

APPEAL NO. 040875  
FILED JUNE 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 3, 2004, with the record closing on March 23, 2004. The hearing officer resolved the disputed issues by deciding that the respondent/cross-appellant's (claimant) "compensable injury extends to the Claimant's diagnosis of cervical protruding discs at C4/5/6, herniation at C3/4, left knee internal derangement, thoracic disc desiccation and/or lumbar disc bulging at L5/S1"; that the claimant reached maximum medical improvement (MMI) on April 18, 2000; and that the claimant's impairment rating (IR) is 13%. The appellant/cross-respondent (carrier) appeals the hearing officer's determination on the issue of the extent of the compensable injury. The claimant appeals the hearing officer determinations on the issues of MMI and IR. The carrier filed a response. No response to the carrier's appeal was received from the claimant.

DECISION

Affirmed as reformed herein.

The benefit review conference report reflects that the issue regarding the extent of the compensable injury was in reference to a \_\_\_\_\_, compensable injury. The parties stipulated that the claimant sustained a compensable lumbar and left knee sprain/strain injury on \_\_\_\_\_. The transcript of the CCH reflects that the hearing officer mistakenly referenced a date of injury of March 30, 2003, when announcing the disputed issues at the CCH and that mistake was carried forward into the hearing officer's decision in listing the issue regarding the extent of the compensable injury. We reform the hearing officer's decision to reflect that the issue regarding the extent of the compensable injury is for the compensable injury of \_\_\_\_\_.

The issue regarding the extent of the claimant's compensable injury presented a fact question for the hearing officer to resolve from the evidence presented. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case on the extent issue, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's determinations that the claimant reached MMI on April 18, 2000, with a 13% IR are based on the report of the designated doctor. The MMI and IR report of the designated doctor chosen by the Texas Workers' Compensation

Commission (Commission) has presumptive weight and the Commission must base its determinations of MMI and IR on that report unless the great weight of the medical evidence is contrary to the report of the designated doctor. Sections 408.122(c) and 408.125(e). There was conflicting evidence presented regarding the MMI and IR issues. The hearing officer found that the great weight of the medical evidence was not contrary to the designated doctor's report and concluded that the claimant reached MMI on April 18, 2000, with a 13% IR as reported by the designated doctor. We conclude that the hearing officer's determinations on the MMI and IR issues are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, *supra*.

As reformed herein, we affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION** for **United Pacific Insurance Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR  
9120 BURNET ROAD  
AUSTIN, TEXAS 78758.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge